

**North Carolina
Postlicensing Course Syllabus**

**POST 302
CONTRACTS AND CLOSING**

February 2018 Edition



North Carolina Real Estate Commission

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INTRODUCTION

Course Description: The *Post 302 Contracts and Closing* course is one of the three 30-classroom hour mandatory Postlicensing courses that must be completed by newly licensed North Carolina provisional brokers within three (3) years after licensure. The primary objective of the course is to provide instruction at a level beyond that provided in Prelicensing courses on topics deemed to be of special importance to licensees. Topics addressed in this course include selected basic contract law concepts, real estate sales contract preparation, sales contract procedures, buyer's due diligence, closing procedures, Real Estate Settlement Procedures Act, closing disclosure preparation, contracts for deed, options, and selected real estate license status and education issues.

Requirements for Teaching the Course: This course may only be taught by schools and instructors approved by the North Carolina Real Estate Commission to teach Prelicensing and Postlicensing courses. Rules governing the conduct of the course, including scheduling, course completion standards, course delivery, course completion reporting and other related matters may be obtained from the Commission. The *Post 302 Contracts and Closing* course must be taught as prescribed by this syllabus.

Prerequisite: Possession of a North Carolina broker license (either provisional or non-provisional).

Textbook: The current edition of the *North Carolina Real Estate Manual*.

Note: Instructors must obtain copies of all the North Carolina Association of REALTORS® and North Carolina Bar Association standard sales contract forms referenced in the syllabus for student use to effectively teach form preparation.

Course Final Examinations and Completion Standards: Schools and instructors are required to utilize end-of-course examinations provided by the Commission in accordance with Commission rules for such examinations. Schools and instructors shall safeguard and protect at all times the confidentiality of examinations provided by the Commission. The examination minimum passing standard is 75%. Schools and instructors may, in their discretion, also require completion of in-class or out-of-class graded assignments that may count for up to 25% of a student's grade for the course.

Order of Topic Presentation and Recommended Topic Emphasis: Topics must be presented in the order shown in the outline. Instructors may make reasonable minor adjustments in subject area emphasis as needed to facilitate instruction but should be careful not to overemphasize or underemphasize to any topic.

General Instructional Approach: Instructors are expected to utilize real-world, illustrative examples, to employ instructional techniques that encourage active student participation in class, and to employ practical in-class and out-of-class work assignments to the maximum extent possible in this course.

Syllabus Copies: The Commission provides this Syllabus for use by school officials and instructors. Schools are authorized to reproduce all or part of this syllabus for student use at their own expense, and may charge students for the cost of reproduction.

**POST 302
CONTRACTS AND CLOSING
POSTLICENSING COURSE**

RECOMMENDED TOPIC EMPHASIS

	Hours
Section 1: Review of Selected Basic Contract Law Concepts	1.5
Section 2: Real Estate Sales Contract Preparation	12
Section 3: Sales Contract Procedures	2
Section 4: Closing Preparations and Procedures	2
Section 5: Real Estate Settlement Procedures Act (RESPA)	2
Section 6: The Closing Disclosure	6.75
Section 7: Other Topics (Alternate Conveyance Contracts; License Status and Education Issues)	0.75
Final Examination (including a complete settlement problem)	<u>3</u>
Total Hours	30

Post 302 Contracts and Closing Postlicensing Course Outline

*References to **Manual** in this outline refer to the **North Carolina Real Estate Manual**, which is the prescribed text for this course. Page number references in the syllabus are to the edition of the **Manual** published in 2017.*

Section 1: Review of Selected Basic Contract Law Concepts (1½ hours) - Chapter 10

- I. Basic Contract Terms [Very brief review] - pp 275-276
- II. Essential Elements of a Contract - pp 277-283
 - A. Offer and Acceptance
 - B. Acceptance and Counteroffers
 - C. Termination of Offers
 - D. Other Legal Prerequisites
 1. Consideration
 2. Capacity
 3. Lawful Objective
- III. Impediments to Mutual Consent - pp 283-287
 - A. Mistake
 - B. Fraud and Misrepresentation
 - C. Unfair/Deceptive Practices
 - D. Duress
 - E. Undue Influence
- IV. Other Contract Law Issues - pp 287-298
 - A. Statute of Frauds - Real Estate Sales Contract Must Be in Writing
 - B. Uniform Electronic Transactions Act (UETA)
 - C. Discharge of Contracts

- D. Rules for Interpretation of Contracts
- E. Contract Remedies
- F. Auction Sales

Section 2: Real Estate Sales Contract Preparation (12 hours)
- Chapter 11

- I. Introduction – *pp 301-307*
 - A. Expectation of Licensee Competence in Completing Contract Forms
 - B. Brokers Prohibited from Drafting Sales Contract Forms for Others
 - C. Sources of Sales Contract Forms
 - D. Commission's Minimum Requirements for Preprinted Sales Contract Forms.
[See Commission Rule 58A .0112, Offers and Sales Contracts, which dictates the content of preprinted contract forms.]
 - E. Using the Appropriate Standard Contract Forms and Addenda
 - F. Persistent Problems in Contract Completion
- II. Review and Completion of the Standard Residential Sales Contract Forms Jointly Approved by the North Carolina Association of REALTORS® (NCAR) and the North Carolina Bar Association (NCBA) - *pp 308-339*

Forms to be Reviewed:

- Form 2-T *Offer to Purchase and Contract* and Form 2-G Guidelines for Completing the Offer to Purchase and Contract
- Forms 2A1-T through 2A14-T -- All standard addenda forms for use in conjunction with the standard Offer to Purchase and Contract form
- Form 12-T *Offer to Purchase and Contract Vacant Lot/Land* and Form 12-G Guidelines for proper completion

- III. Major Provisions of Standard Form 2-T – *pp 308-336*

Provision #1: Terms and Definitions

1-a & b. Names of Seller and Buyer. [Discuss handling an undisclosed buyer-principal.]

- 1-c. Property Description
- 1-d. Purchase Price
- 1-e. Earnest Money Deposit
- 1-f. Escrow Agent - including discussion regarding Handling of Earnest Money - *pp 314-317*
- 1-g. Effective Date
- 1-h. Due Diligence (the concept)
- 1-i. Due Diligence Fee
- 1-j. Due Diligence Period
- 1-k. Settlement
- 1-l. Settlement Date
- 1-m. Closing
- 1-n. Special Assessments (Proposed and Confirmed)

Provision #2: Fixtures and Exclusions

Provision #3: Personal Property

Provision #4: Buyer's Due Diligence Process

- 4-a. Loan
- 4-b. Property Investigation
- 4-c. Repair/Improvement Negotiations/Agreement
- 4-d. Buyer's Obligation to Repair Damage
- 4-e. Indemnity
- 4-f. Buyer's Right to Terminate
- 4-g. Closing shall constitute acceptance...

Provision #5: Buyer Representations

Though the buyer is liable for the accuracy of all representations made, the representations are informational only and do not rise to the level of a condition or contingency absent relevant attached addenda.

5-a. Loan (information regarding buyer's loan -- not a contract condition)

5-b. Other Property (information regarding whether buyer must sell other property to qualify for a new loan -- not a contract condition without the Contingent Sale Addendum.)

5-c. Ability of Buyer to perform financial obligations under contract

5-d. & e. Property Disclosures (Whether buyer has received, not received, or seller is exempt from requirement to provide *Residential Property and Owners' Association Disclosure Statement* and/or the *Mineral and Gas and Oil Rights Disclosure*).

Provision #6: Buyer Obligations (to pay proposed special assessments and certain closing costs plus authority to disclose information)

Provision #7: Seller Representations

7-a. Length of property ownership

7-b. Lead-Based Paint (if applicable)

7-c. Assessments

7-d. Owners' Association(s) & Dues

Provision #8: Seller Obligations [*long list – see form*]

Provision #9: Prorations and Adjustments – *pg 329*

Provision #10: Home Warranty

Provision #11: Condition of Property at Closing

Provision #12: Risk of Loss

Provision #13: Delay in Settlement/Closing

Provision #14: Possession

Provision #15: Addenda

Provision #s 16-23: Miscellaneous Provisions

Signature and Dates -- pp 335-336

- IV. All Standard NCAR Addenda (2A1-T through 2A14-T)
- V. *Offer to Purchase and Contract – Vacant Lot/Land* (Form 12-T) and Guidelines for Completing (Form 12-G)

Section 3: Sales Contract Procedures (2 hours) - pp 339-351

- I. Offer and Acceptance - Review of basic contract principles
- II. Submitting Offers to Sellers - pp 346-348
 - A. Requirements of G.S. 93A-6(a)(13) and Commission Rule 58A .0106 regarding delivery to parties of offers, contracts and other documents
 - B. Multiple Offers
- III. Contract Modification and Counteroffers - pp 348-350
- IV. Furnishing Copies of Contracts (Reminder) - pg 350

**Section 4: Closing Preparations and Procedures (2 hours)
- Chapter 14, pp 441-484**

- I. Pre-Closing – General Issues pp 441-443
 - A. Educate the parties.
Brokers should explain to buyers and sellers all the steps involved in preparing for settlement and closing the transaction. [See also the NCREC brochure titled *Q&A on Real Estate Closings*.]
 - B. Select and coordinate with closing attorney.
The buyer should identify the closing attorney of his/her choice and immediately contact the attorney to learn the amount of the attorney's fee and to be placed on the attorney's calendar. Immediately provide all available information that will assist the attorney in preparing for closing, such as copies of the contract, the seller's deed, the seller's title insurance policy, information on the seller's loan payoff or lender, as well as any invoices or services that are to be paid at closing. This will help avoid a delay in closing.
 - C. Be prepared for settlement delays.
Remember the provisions in Standard Form 2-T regarding this matter.

II. Pre-Closing – Buyer’s Due Diligence Process - *pp 443-449*

- A. General Responsibility of Broker working with a Buyer. Broker working with buyer, whether a buyer’s agent or seller’s subagent, should assist the buyer with performing tasks necessary to consummate the transaction. (This is in the best interest of both the buyer and the seller.)
- B. Buyer’s Loan
- C. Appraisal
- D. Survey
- E. Property Insurance
- F. Inspections/Inquiries
 - 1. Wood-Destroying Insect Inspection
 - 2. Physical Inspection by Buyer and by a Qualified Professional
 - 3. Sewage Disposal Systems
 - 4. Wells or Water Quality
 - 5. Possible Environmental Inspections: Lead-Based Paint, Radon and Asbestos
 - 6. Resolution of Inspection/Repair Issues
 - 7. Review of Restrictive Covenants and HOA Documents
 - 8. Review of Zoning (if “red flag” situation exists)

III. Other Pre-Closing Matters - *pp 450-452*

- A. Title search
- B. Clearing of any title defects by seller, if applicable
- C. Prepare Assignment of any outstanding leases
- D. Final Pre-Closing Procedures
 - 1. Transfer earnest money from broker/firm to the closing attorney, if applicable.

2. Review draft closing disclosure provided by closing attorney for accuracy as soon as available. *[Both listing and selling brokers.]*
 3. Advise buyer of amount to bring to settlement and specify what forms of payment will be acceptable. *[Attorney's responsibility, but often accomplished through the broker(s).]*
 4. Arrange for Title Insurance. *[Attorney's responsibility.]*
- IV. Closing Procedures - pp 452-457
- A. Escrow Closing Method
 - B. Settlement Meeting Method
 1. Role of non-lawyers in closings
 2. Closings coordinated by real estate broker [Caution!]
 - C. Settlement Meeting Procedures
 1. Location and parties attending
 2. Review of documents (particularly the settlement statement/closing disclosures) for accuracy
 3. Post-settlement meeting tasks: title update, recording, disbursing funds, tax reporting requirements, etc.

Section 5: Real Estate Settlement Procedures Act (RESPA) and TILA-RESPA Integrated Disclosure Rule (TRID) (2 hours) - pp 457-469

- I. Applicability of RESPA
- II. RESPA Requirements/Consumer Protections
 - A. Borrower Credit for "Yield Spread Premiums"
 - B. Loan Servicing Disclosure Requirements
 - C. Escrow Account Restrictions
 - D. Prohibited Kickbacks or Referral Fees
 - E. Special Information Booklet for Homebuyer/Borrowers

- F. Written Estimate of Closing Costs
- G. Settlement Statement
- III. Penalties for Violating RESPA
- IV. Introduction to TRID Rule
- V. The Loan Estimate (LE)
 - A. Permissible Variations/Tolerance Limits
 - B. Brokers' Responsibility for LE
- VI. The Closing Disclosures
 - A. Delivery of Borrowers' Closing Disclosure
 - B. Corrected/Revised Closing Disclosure
 - C. Brokers' Responsibility to verify and provide copies

Section 6: The Settlement Statement (6¾ hours) - pp 470-484

- I. Prorations
 - A. Real Estate Taxes (various situations)
 - B. Rents
 - C. Homeowner's Dues
- II. Buyer's Closing Disclosure *pp 474-484*

Section 7: Other Topics (¾ hour)

- I. Alternate Conveyance Contracts (½ hour)
 - A. Installment Land Contract (Contract for Deed) - *pp 351-354*
 - B. Option to Purchase - *pp 354-359*
 - C. Preemptive Rights - *pp 359-360*
 - 1. Right of First Refusal

2. Right of First Opportunity to Purchase
- II. License Status and Education Issues (¼ hour)
 - A. License Status: Meaning of provisional broker, active, inactive, expired, suspended, revoked, and canceled status.
 - B. Postlicensing Education Requirement (and consequences of failure to satisfy)
 - C. Continuing Education Requirement (and consequences of failure to satisfy)
 - D. Requirements and procedures to activate an inactive license
 - E. Requirements and procedures to reinstate an expired license
 1. License expired for not more than 6 months
 2. License expired for more than 6 months

End of Course Syllabus